

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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#9



Here the application of

Inventor: Afek et al
Serial No.: 09/929,877
Filing Date: August 14, 2001
for METHODS AND APPARATUS FOR PROTECTING AGAINST OVERLOAD CONDITIONS ON NODES OF A DISTRIBUTED NETWORK

Examiner:
GAU: 2181

Atty Docket: 0103376-00003

CERTIFICATE OF MAILING OR FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile (at the Telefax Number above) transmitted to the U.S. Patent and Trademark Office on the date shown below.

Date 8/29/03 *DP 8/29/03*

David J. Powsner Reg. No. 31,868

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petition to Revive (Prospective) Under 37 CFR 1.137(b)

Applicants hereby petition to revive — or, in the alternative, to prevent abandonment of — the above-cited application. A (small-entity) fee in the amount of \$650.00 is enclosed herewith. Please charge any additional fee associated with this request or credit any refund to Deposit Order Account 14-1449. Grounds for this petition are set forth below.

On August 14, 2001, the Applicants filed a Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) (i.e., a Non-Publication Request) in the above-cited U.S. Patent Application. This was in connection with the initial filing of the above-cited application, at a time when the

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Applicants verily believed that the application had not and would not be the subject of a foreign or international application requiring publication at eighteen months and that they could rescind the Non-Publication Request upon notification of the the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application.

On October 16, 2001, the Applicants filed a Request to Rescind Previous Non-Publication Request (35 U.S.C. 122(b)(2)(B)(ii)) in the above-cited application. This was in connection with their filing in the USPTO United States Receiving Office of a PCT Request for an International Application (PCT/RO/101) claiming the benefit of priority of and directed to an invention disclosed in the above-cited application.

The Applicants understand that filing of the "PCT Request" with the USPTO United States Receiving Office fully met their obligation under 35 U.S.C. 122(b)(2)(B)(iii) to notify the USPTO of the foreign or international filing of such invention. If the Applicants were mistaken in this regard, such mistake was purely unintentional (as was their failure to provide notice above and beyond the PCT Request itself) and the Applicants respectfully request (i) that the attached Notice of Foreign Filing be accepted in that regard, and (ii) that the application be revived, or be prevented from going abandoned, for failure to fully meet the requirements under 35 U.S.C. 122(b)(2)(B)(iii) to notify the USPTO of such foreign or international filing.

In this regard, the Applicants hereby state that the entire delay in filing this (additional) required notice from the due date thereof (i.e., within 45 days of filing of the PCT Request) to the filing of this grantable petition was unintentional, the Applicants having just learned of the Patent Office's recent clarification of its interpretation of the notice provisions of 35 U.S.C. 122(b)(2)(B)(iii) and its update of form PTO/SB 36, an earlier version upon which Applicants relied for their October 16, 2001, Request to Rescind Previous Non-Publication Request.

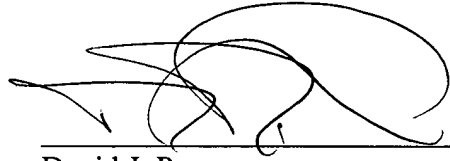
No Terminal Disclaimer is understood to be required for filing herewith.

If the Applicants are correct that their filing of the PCT Request indeed fully met their notice obligation under 35 U.S.C. 122(b)(2)(B)(iii) — as is corroborated by the apparent fact that

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the application is indeed still pending — they request refund of the accompanying petition fees.
As mentioned above, please refund such fees to our Deposit Account No. 141449.

Respectfully submitted,
NUTTER, McCLENNEN & FISH, LLP



8/29/03

David J. Powsner
Reg. No. 31,868

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Notice of Foreign Filing
(35 U.S.C. 122(b)(2)(B)(iii))

On October 16, 2001, the Applicants filed a Request to Rescind Previous Non-Publication Request (35 U.S.C. 122(b)(2)(B)(ii)) in the above-cited application. Concurrently, the Applicants filed with the USPTO United States Receiving Office a PCT Request for an International Application (PCT/RO/101) claiming the benefit of priority of and directed to an invention disclosed in the above-cited application. The Applicants understand that filing of the latter with the USPTO United States Receiving Office fully meets the requirements under 35 U.S.C. 122(b)(2)(B)(iii) to notify

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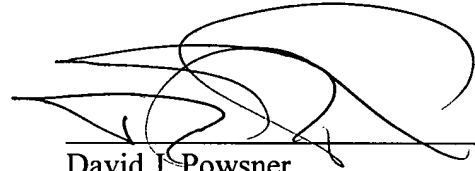
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the USPTO of the foreign or multilateral international agreement filing (hereafter, "foreign filing") of such invention. Should that not be the case, the Applicants hereby notify the USPTO of such foreign filing and request that this document be accepted for that purpose.

Respectfully submitted,
NUTTER, McCLENNEN & FISH, LLP



8/29/03

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